IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 27019 of 2001

Between:

Putta Munnamma W/o. Agastghi
Chintalepalle (V), Chittoor Dt.

..... PETITIONER

AND

1 The Sub-Inspector of Police, P.S.,
Panjani, Chittoor.
2 The Superintendent of Police,
Chittoor.
3 The D.S.P.,
Chittoor.
4 The Asst. Public Prosecutor, Spl.Mobile Court,
Chittoor.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in not including the offence punishment under provisions of SC/ST (POA) Act 1989 read with said Rules 1995 in C.C. 19/99 filed before the Addl.Judge, 1st Class Magistrate, Chittoor as illegal, contrary to law and arbitrary and consequently restraining the VI A.D.J., Chittoor, not to dispose off the Cr. Appeal No.110/2000 pending before him by remanding back for retrial further direct 2nd respondent to initiate disciplinary and Criminal action against respondent No.1 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.M/S P.RANA PRAVEER & RANA KAMALASAN

Counsel for the Respondents: GP FOR HOME

The Court made the following :

ORDER:

The petitioner herein is a resident of Chintalepalli Village, Panjani Mandal, Chittoor District. She claims to belong to Scheduled Caste. On 08.04.1997, on Ugadi day, she along with her husband, Agasthi, went to Boyakonda Gangamma Temple at Chintalepalli Village. One Bode Veleppa and others belonging to Forward Community prevented the couple from entering the temple and beat severely causing bleeding injuries. P.S.Panjani registered Crime No.30/97 under Sections 323, 324 read with Section 34 of the Indian Penal Code, 1860 (I.P.C) and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act'). After investigation of the Crime, it appears the Police filed charge sheet only under Sections 323 and 324 of I.P.C. After conducting regular trial, the Court of the Judicial Magistrate of First Class (Special Mobile Court), Chittoor, by Judgment dated 15.05.2000 in C.C.No.19 of 1999 convicted accused Nos.1 to 3 and accused Nos.5 to 7 under Section 323 of I.P.C and sentenced to undergo simple imprisonment for a period of four months. Aggrieved by the same, the convicts filed an appeal, being Criminal Appeal No.110 of 2000, on the file of the VI Additional District and Sessions Judge, Chittoor. While the same is pending, the petitioner, who is the complainant, filed the present writ petition seeking a writ of Mandamus declaring the action of the second respondent in not including the offence under Section 3(1)(x) of the Act, as illegal and arbitrary, and further prohibit the learned VI Additional District and Sessions Judge, Chittoor, from taking up the Criminal Appeal.

This Court admitted the writ petition on 20.02.2002, but did not pass any interim order. Be that as it is. It is not denied before this Court that after investigating Crime No.30/97, P.S.Panjani filed charge sheet before the Court of the Judicial Magistrate of First Class under Sections 323 and 324 of I.P.C. At that stage the petitioner, who was examined as P.W.1 was aware of the criminal trial, but did not raise any objection. When accused Nos.1, 2, 3 and 5 to 7 were convicted for the offence under Section 323 of I.P.C, they filed the appeal. At that stage, the petitioner realized that the second respondent did not include Section 3(1)(x) of the Act and therefore, filed the present writ petition. In this background, in the considered opinion of this Court, a writ petition would not lie. It is always open to the petitioner to seek appropriate redressal before the appellate Court by moving appropriate application, if the Criminal Appeal is still pending. Be it also noted that any offence under Section 3(1) of the Act is triable by the Court of Sessions. The Court of Judicial Magistrate of First Class could not have tried an offence under Section 3(1) of the Act.

The writ petition is misconceived and is accordingly dismissed. No costs.

(V.V.S.RAO, J)

15.06.2005

vs

To

1 The Sub-Inspector of Police, P.S.,
Panjani, Chittoor.
2 The Superintendent of Police,
Chittoor.
3 The D.S.P.,
Chittoor.
4 The Asst. Public Prosecutor, Spl.Mobile Court,
Chittoor.

5 Two CCs to the G.P for Home, High Court of A.P., Hyderabad(O.U.T).

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